

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

William J. and Karen E. Kallanov,
Petitioners-Appellants,

v.

Dallas County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-25-1116
Parcel No. 16-11-326-013

On December 4, 2009, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellants, William J. and Karen E. Kallanov, requested the appeal be considered without hearing and submitted evidence in support of their petition. The Board of Review designated Dallas County Attorney Wayne Reisetter as its legal representative. It also certified its record. The Appeal Board now having examined the entire record, and being advised, finds.

Findings of Fact

William J. and Karen E. Kallanov, owners of property located at 8125 Century Drive, West Des Moines, Iowa, appeal from the Dallas County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a two-story frame dwelling having 2416 square feet of living area and a three-car attached garage. The dwelling was built in 2006 and sits on a 0.28 acre site.

The real estate was classified as residential for the January 1, 2009, assessment and valued at \$302,270; representing \$75,530 in land value and \$226,740 in improvement value. The Kallanovs protested to the Board of Review on the grounds that the property's assessment was not equitable with other like properties' assessments under Iowa Code section 441.37(1)(a); and that there is an error in

the assessment under section 441.37(1)(d) based on over-assessed lot value. In response to the protest, the Board of Review notified the Kalianovs that the January 1, 2009, assessment would not be changed finding that "property owner/agent failed to substantiate burden of proof."

The Kalianovs then filed an appeal with this Board on the ground that the assessment is not equitable with other assessments in the taxing district. The amount of relief sought in this appeal by the Kalianovs is \$30,530. They value the property at \$271,740; allocated \$45,000 to land value and \$226,740 in dwelling value.

The Kalianovs presented evidence of their purchase agreement from June 2008 that indicated that they paid \$280,000 for the subject property. The \$280,000 amount was supported by a financial report for a line of credit that indicated the value of the subject property to be a range of value from \$280,000 to \$285,000. The Kalianovs also submitted evidence regarding the dollar-value-per-square-foot of lots that, in their opinion, is comparable to the subject property. The range of value is \$3.11 per square foot to \$4.62 per square foot. The subject lot is assessed at \$6.29 per square foot.

The original sales price of the subject lot was \$70,900 in August of 2005 and is currently assessed at \$75,530 for January 1, 2009. The primary concern of the Kalianovs is the portion of the assessment that relates to the land valuation and whether the assessment has been adjusted for the impact of easements on the subject lot. The Kalianovs believe that based on the comparison of other lots in the district, their lot assessment should be \$45,000. This equity claim would result in an overall assessment of \$271,400, which is lower than the sale price of \$280,000.

Assessor Steve C. Helm submitted evidence on behalf of the Dallas County Board of Review. The Board of Review filed with this Board a hearing brief from Dallas County Attorney Wayne Reisetter signed by Steve Helm, the county assessor. While the introduction states the brief is from the county attorney, the assessor signed it. This concerns this Board to the extent that the assessor signs on behalf of the county's legal counsel.

The Board of Review in response to the equity claim, asserts that the Kalianovs failed to provide evidence that the subject property's assessment was not equitable with other assessments in the district. The Board of Review points out that the Kalianovs dispute only the land value, not the dwelling, or the total assessment value. The Board of Review submitted evidence that indicates the range of value in Robel Century Run Lot subdivision is \$69,770 to \$85,110. The subject property is in the middle of this range at \$75,530. It also points out that three of the Kalianov's five comparable lots are in Bartlett Farm Plat and assessed at \$45,000. The other two lots are corner lots in Robel Century Run Lot and have assessed values of \$70,200 and \$86,110.

The Board of Review also submitted evidence of a sales ratio study by the Iowa Department of Revenue. It is also of the opinion that the sale of the subject property may not be a normal sales transaction because the listing by the owner started out at \$340,000. This Board finds that a listing price and the sales ratio study have no bearing on this equity claim. The listing price is not a sales price. The fact that it was listed at this price is not indicative of the property's fair market value. Further, the sales ratio is based on the entire class of property, not the subject property.

Reviewing all the evidence, we find that the comparable lots submitted by the Kalianovs did not prove their January 1, 2009, assessment is inequitable. The evidence by the Board of Review supports the assessment since the subject property falls within the range of lot assessments in the subject property's subdivision.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the

property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. Iowa Code section 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

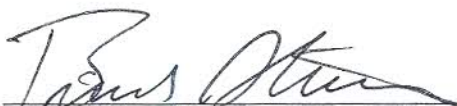
To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

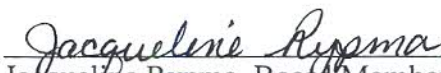
The properties submitted by the Kalianovs cannot be used as comparables to challenge the assessment as inequitable because most of the properties are located in another subdivision or are dissimilar. Further, the other two support the assessment although the sales price indicates that the property was purchased at fair market value. The Kalianovs did not claim that the property was assessed for more than authorized by law. We, therefore, affirm the assessment of the Kalianov

property as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$302,270; representing \$75,530 in land value and \$226,740 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Dallas County Board of Review is affirmed.

Dated this 28 day of January, 2010.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-28</u> , 2010.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	